

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

Jason Wolfe,

Plaintiff, Case No. 3:24-cv-164

v.

District Judge Thomas M. Rose

Rob Streck,

Magistrate Judge Elizabeth Preston Deavers

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION (DOC. 21);
DISMISSING ACTION WITHOUT PREJUDICE; DENYING MOTION
FOR EXTENSION OF TIME TO FILE FORMAL COMPLAINT (DOC.
22); AND TERMINATING CASE.**

Before the Court is the Report and Recommendation (Doc. 21) of Magistrate Judge Elizabeth Preston Deavers, recommending that the Court dismiss this action without prejudice pursuant to Federal Rule of Civil Procedure 41(b) and Plaintiff Jason Wolfe's Motion for Extension of Time to File Formal Complaint. (Doc. 22). The Report and Recommendation (Doc. 21) would have the Court dismiss the action for repeated failures on behalf of Plaintiff to file a complaint that contains a caption.

Federal Rule of Civil Procedure 10 demands: “Every pleading *must* have a caption with the court’s name, a title, a file number, and a Rule 7(a) designation. The title of the complaint *must* name all the parties....” Fed. R. Civ. P. 10(a) (emphasis added). “[E]ven...a *pro se* litigant...is not entitled to be shielded from all consequences for his...failure to comply with the simple and vital requirement of Federal Rule of Civil Procedure 10(a).” *Aslani v. Sparrow Health Sys.*, No. 1:08-cv-298, 2009 WL 3711602, at *14 (W.D. Mich. Nov. 3, 2009); *see also Howze v. Sanders*, 2008 WL 4570274, *1 (C.D. Cal. Oct.14, 2008) (“The complaint’s caption must list all defendants.”); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262–63 (9th Cir. 1992)); *Harris v. Fischer*, 2008 WL 2331446, *3 (N.D.N.Y. June 3, 2008) (“Plaintiff should note that any Amended Complaint ... must contain a caption that identifies by name, each individual and/or entity that Plaintiff is suing in the present lawsuit Plaintiff should note that any Defendant not named in the [caption of the] amended pleading shall not be a Defendant to this action.”)

The Report and Recommendation details the repeated extensions the Court has granted Plaintiff to comply with the requirements of Rule 10, and Plaintiff’s failure to do so. While Plaintiff explains that he has again been denied access to materials and the law library, he does not explain his failure to fill out the form the Court mailed to him for him to fill out with a proper caption. (*See Docs. 17, 22.*)

The Court has reviewed the findings of the Magistrate Judge and, pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), this Court has made a *de novo* review of the record in this case. Upon consideration of the foregoing, the Court **ADOPTS** the Report and Recommendation (Doc. 21); Plaintiff’s Motion for Extension of Time to File Formal Complaint (Doc. 22) is **DENIED**. The instant action is **DISMISSED WITHOUT**

PREJUDICE and **TERMINATED** from the docket records of the United States District Court for the Southern District of Ohio, Western Division at Dayton.

DONE and **ORDERED** this Monday, July 7, 2025.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE